IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.27 OF 2002

Karbhari @ Balwant S.Pingale & Ors. .. Appellants.
Vs.
Hari Shankar Pingale & Ors. .. Respondents.

Mr.Shirke i/b Mr.M.S.Karnik for the appellants.
Mr.R.A.Thorat for respondent nos.2 and 3.
Mr.K.S.Patil i/b Mr.P.N.Joshi for respondent no.4.

CORAM : D.B.BHOSALE, J.

DATED : 12TH FEBRUARY, 2007

P.C.:

. Heard learned counsel for the parties.

2. The concurrent judgments of the courts below are under challenged in the instant appeal filed by the appellants-plaintiffs. The suit was filed for declaration that a sale deed dated 22.2.1988 is illegal, null and void and not binding on them and that the loan obtained by defendant nos.2 and 3 from defendant no.4 - bank on the basis of the sale deed is not binding on the plaintiffs. The plaintiffs also prayed for injunction against defendant nos.2 and 3 restraining them from alienating the suit property. The case set up by the plaintiffs is that the suit property is their ancestral property and not self acquired property of Mahadu Pingale, the grand father

of defendant no.2. It is held that Mahadu Pingale had purchased the suit property on 16.3.1912. Insofar as the sale deed dated 22.2.1988 is concerned the courts below have recorded a categoric finding that the suit property is owned by the branch of Mahadu to which defendant nos.2 and 3 represent and that execution of the sale deed dated 22.2.1988 was not necessary and it was executed only to remove technical defect. It is against this backdrop that Mr.Shirke, learned counsel for the appellants, vehemently submitted that insofar as sale deed dated 22.2.1988 is concerned, the findings recorded by the courts below are self contradictory. He further submitted that the admissions given by the defendant in respect of the suit property and status of the family as joint family have not been taken into consideration by the courts below. I perused the judgments of both the courts below and in particular paragraph 10 and 11 of the appeal court's judgment. Both the courts have appreciated the evidence on record in proper perspective and have concurrently held that the suit property was self acquired property of Mahadu and it was not ancestral property, as claimed by the plaintiffs, and in view thereof have rightly dismissed the suit instituted by the appellants-plaintiffs. No substantial question of law is either raised or involved in this appeal. Considering that there are

concurrent findings recorded by the courts below and as I find sufficient material on record to sustain those findings and considering extremely limited jurisdiction of this court under section 100 of the Code of Civil Procedure to disturb the findings of fact this appeal fails and dismissed as such.

(D.B.Bhosale, J.)